

MUR # 7307

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**December 29, 2017**

**Thomas Edward Homan,**

**∴ Orange City, FL 32763, files the below**

**Complaint pursuant to 52 U.S.C. § 30109(a)(1) against dentist and two-time failed candidate**

Frederick "Fred" Costello, residing at \_\_\_\_\_, Ormond Beach, Florida 32174, for

violating the Federal Election Campaign Act of 1971, as amended (the "Act") and Federal

**Election Commission (“FEC”) regulations, as described below. All of the statements in this**

**Complaint are based on my personal knowledge, unless otherwise indicated.**

Fred Costello, a two-time failed candidate for Florida's sixth U.S. congressional district, has made public statements that he is running for that seat for a third time in 2018 and has even gone to public events asking voters to support him as a candidate. However, he has yet to inform the FEC through the required disclosures. On Wednesday, August 9, 2017, the *Ormond Beach Observer* published an article quoting Costello that he was running for Florida's sixth U.S. congressional district, and was planning a formal announcement at a later date. "If [DeSantis]

chooses to run for anything other than Congress, I feel like I'm the best candidate."<sup>1</sup> He added that "I'm passionate about it. I'm prepared. I'm ready to do it and I look forward to the opportunity to represent the sixth district."<sup>2</sup>

In another article published that same day, now nearly five months ago, Mr. Costello further described the issues he would work on if elected: "I pledge to fight for our local infrastructure and local needs in a shrinking pot."<sup>3</sup> The article confirmed that the candidate himself made that statement by a phone interview, and the candidate went on to discuss prioritizing health care, national debt, veterans issues, and education.<sup>4</sup>

Costello himself appears to have so thoroughly made up his mind to run for federal office that he designed a logo and printed it on business cards that read "Fred / He Stands for US! / Costello for Congress." These cards were distributed to attendees at events as early as November 9, at a Veterans Appreciation Breakfast held by the Volusia (Florida) County Chamber of Commerce. See Attachment B.

On November 19, 2017, after initially publicizing his candidacy through an orchestrated press rollout in August, he appeared at the Flagler Trump Club, confirming the intent of those August articles. In a stump speech to a room of conservative activists and voters, Costello

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<sup>1</sup> *Ormond Beach Observer*, "Former Ormond Beach Mayor Fred Costello to run for Congress in 2018," Aug. 9, 2017, available at, <https://www.ormondbeachobserver.com/article/former-ormond-beach-mayor-fred-costello-to-run-for-congress-in-2018>.

<sup>2</sup> *Id.*

<sup>3</sup> *The Daytona Beach News-Journal*, "Former state Rep. Fred Costello eyes 6th District Congressional seat," Aug. 9, 2017, available at <http://www.news-journalonline.com/news/20170809/former-state-rep-fred-costello-eyes-6th-district-congressional-seat>; see also Attachment A.

<sup>4</sup> *Id.*





However, the FEC has explicitly limited this exception to not apply to individuals “who have decided to become candidates.”<sup>9</sup> The FEC has identified a number of examples that demonstrate when an individual has decided to become a candidate, including that the individual:

- (1) uses general public political advertising to publicize his or her intention to campaign for federal office;
- (2) raises funds in excess of what could reasonably be expected to be used for exploratory activities or undertakes activities designed to amass campaign funds that would be spent after he or she becomes a candidate;
- (3) makes or authorizes written or oral statements that refer to him or her as a candidate for a particular office;
- (4) conducts activities in close proximity to the election or over a protracted period of time; and
- (5) has taken action to qualify for the ballot under state law.<sup>10</sup>

A candidate who has moved “beyond the deliberative process of deciding to become a candidate, and into the process of planning and scheduling public activities” to gather support for a campaign has likely triggered a candidacy and therefore a filing requirement with the FEC.<sup>11</sup>

“Once an individual becomes a candidate, equivocal statements of intent or a future ‘official announcement’ do not eradicate the registration and reporting requirements that have [already] been triggered.”<sup>12</sup>

As early as August 9, 2017, Costello had made unequivocal public statements through an orchestrated and planned media rollout that he was a candidate for Florida's sixth U.S. congressional district. This triggered Costello's obligation to file a Statement of Candidacy

<sup>9</sup> 11 C.F.R. § 100.72(b).

<sup>10</sup> *Id.*; 11 C.F.R. § 100.131(b).

<sup>11</sup> See AO 1981-32 (Askew).

<sup>12</sup> MUR 5363 (Sharpton), Factual and Legal Analysis at 8.



regulations, that the FEC investigate these violations pursuant to federal law at 52 U.S.C. §  
30109(a)(2), and that Respondent be fined the maximum amount permitted by law.

Sincerely,

*Tom Homan*

Thomas Edward Homan

SIGNED AND SWORN to before me this 29<sup>th</sup> day of December, 2017

*Tom Homan TH*

Notary Public

My Commission Expires:

*March 9, 2021*

*Doris D. Maietta - Notary*



## Attachment A

### Former state Rep. Fred Costello eyes 6th District Congressional seat

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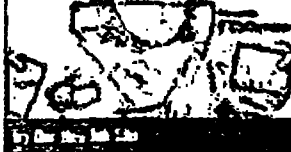
2. **How to find a job**  
that will pay you  
\$100,000

3. **How to find a job**  
that will pay you  
\$100,000

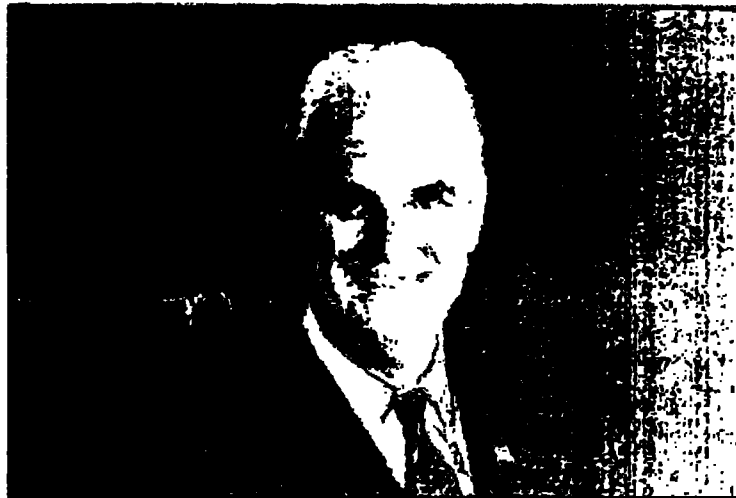
4. **How to find a job**  
that will pay you  
\$100,000

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FINDING A JOB  
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— MICHAEL CAPTON

By Mike Galt

Published: 11/17/01 11:00 AM  
Updated: 11/17/01 11:00 AM



Another potential candidate is eyeing the 6th Congressional District. It's the 3rd District, but only if the incumbent, U.S. Rep. Ken Calvert, decides to run for Florida governor.

Former state Rep. Fred Costello, D-Orlando Beach, told he is ready to serve the district if Calvert, a Republican, runs in his third term of Congress. Calvert has not yet decided whether to run for Florida governor.

Costello said the district, which includes Volusia and Flagler counties, stretches to John County in northern Lake County, sends someone to Washington, D.C. that "understands state politics."

"I want to fight for our local infrastructure and local needs for a changing job," Costello said when asked why he was running. "We need somebody that comes from the area. We need somebody to represent us."

The veteran, former and small business owner and health care, the highest debt, veterans health and a business as a business he wants to be a business man. Costello is also the former mayor of Orlando Beach.

"I just want to make the people I know in Volusia and Flagler feel like the most qualified, prepared and ready to go to Washington to represent us," he said.

Orange's Nancy Sabersberg, a University of North Florida professor, died in July and is running for the seat. The former state Rep. White House recently moved into the district from Jacksonville Beach, she said.

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Attachment B



Attachment C

